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S.B. CIVIL MISC. APPEAL NO.615/2007.
Prem Dass & Ors. Vs. Mohd. Rafiq & Ors.

Date of Order :: 9th February 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajendra Choudhary, for the appellants.

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BY THE COURT:

In this appeal on behalf of the claimants seeking enhancement over the amount of Rs.3,07,000/- together with interest @ 7.5% per annum awarded by the Tribunal towards compensation, learned counsel Mr. Rajendra Choudhary for the claimant-appellants has strenuously contended that the Tribunal has been in error in putting estimate on the income of the deceased Smt.Anu, about 20-22 years in age, wife of the claimant No.1 and mother of the claimants Nos. 2 and 3, only at Rs.2,000/- per month and thereafter deducting one-third on her personal expenditure and assessing pecuniary loss only at Rs.2,72,000/-; and in not allowing anything towards future prospects. Learned counsel has referred to a decision of this Court in Gopal Kanwar & Ors. Vs. Darbara Singh & Ors.: 1999 ACJ 1013.

Having given a thoughtful consideration to the submissions made by the learned counsel appearing for the appellants and having examined the impugned award, this Court is satisfied that the amount awarded by the Tribunal cannot be said to be too low or grossly inadequate so as to warrant interference in appeal.

Admittedly the deceased was 20-22 years in age and the claimants asserted her monthly income at Rs.2,500/- from managing cattles and vending milk; but for want of any cogent corroborative evidence, the Tribunal has treated the deceased a house-wife and estimated her income at Rs.2,000/- per month, that comes to Rs.24,000/- per annum. In fact, if the deceased was to be considered a non-earning person, in relation to the incident of the year 2000, her notional income could not have been taken more than Rs.15,000/- per annum. Then, the Tribunal has assessed pecuniary loss at Rs.2,72,000/- with application of maximum side multiplier of 17 and has further allowed substantially higher amount towards non-pecuniary loss. The rate of interest at 7.5% per annum is also not on the lower side.

The decision referred by the learned counsel for the appellant relating to the claim made by widow and parents of the vehicular accident victim obviously rules out its applicability to the facts of the present case. The submission

regarding future prospects does also not fit in the fact situation of the present case as the deceased has not been shown in any settled job or employment. In the ultimate analysis, there appears no scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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